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of some matter of inducement thereto or to which it is to be applied (citing Words and Phrases, vol. 5, p. 4540).

[Ed. Note.—For other cases, see Contracts, Cent. Dig. §§ 415-419; Dec. Dig. § 93.\* 11 Va.-W. Va. Enc. Dig. 888.]

Appeal from Court of Law and Chancery of City of Norfolk.

Action by Briggs and others against Watkins and others. From a decree dismissing the bill, complainants appeal. Reversed and remanded, with directions to enter decree for complainants and for further relief.

*Thos. H. Willcox* and *R. D. Cooke*, for appellants.

*Thos. W. Shelton*, for appellees.

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MCNAMARA SYNDICATE v. BOYD.

March 9, 1911.

[70 S. E. 694.]

**1. Vendor and Purchaser (§ 233\*)—Property Conveyed—Lots Remaining Unsold.**—Where a corporation executed a deed to defendant's grantor of all of the lots embraced in a plat which at that time "had not been sold," such deed did not convey lots which the corporation had previously sold with a general warranty of title by deeds not recorded until after record of the conveyance to defendant's grantor.

[Ed. Note.—For other cases, see Vendor and Purchaser, Cent. Dig. §§ 563-566; Dec. Dig. § 233.\* 11 Va.-W. Va. Enc. Dig. 682.]

**2. Vendor and Purchaser (§ 233\*)—Notice—Recording Acts.**—A corporation conveyed to defendant's grantor certain lots in a plat under a deed conveying all the lots remaining unsold belonging to the corporation, and thereafter certain of the lots, including lots which had been previously sold by the corporation to plaintiff under a deed not recorded, were conveyed to defendant. Held, that defendant was put on inquiry by the deed from its grantor, and was not therefore protected by the recording acts as to the lots previously sold to plaintiff.

[Ed. Note.—For other cases, see Vendor and Purchaser, Cent. Dig. §§ 563-566; Dec. Dig. § 23 \* 11 Va.-W. Va. Enc. Dig. 682; 10 Va.-W. Va. Enc. Dig. 486.]

**3. Quieting Title (§ 35\*)—Bill.**—A bill to quiet title, alleging that plaintiff was the owner of the land in question, that he has legal title to and is in possession thereof, alleges sufficient right to sue to confer jurisdiction.

[Ed. Note.—For other cases, see Quieting Title, Cent. Dig. §§ 73, 74; Dec. Dig. § 35.\* 11 Va.-W. Va. Enc. Dig. 525.]

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\*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.

**4. Quieting Title (§ 12\*)—Vacant Property.**—Where certain lots in controversy were uninclosed, unimproved, unoccupied, and not in the actual possession of either plaintiff or defendant, plaintiff, holding the legal title, had sufficient possession to entitle him to maintain a suit to quiet title.

[Ed. Note.—For other cases, see Quieting Title, Cent. Dig. §§ 8-12, 44, 45; Dec. Dig. § 12.\* 11 Va.-W. Va. Enc. Dig. 518, 522.]

**5. Quieting Title (§ 7\*)—Cloud on Title.**—Where plaintiff had the legal title and possession of certain land, a subsequent deed by another purporting to convey the property constituted a cloud on title which plaintiff was entitled to sue in equity to remove.

[Ed. Note.—For other cases, see Quieting Title, Cent. Dig. §§ 14-33; Dec. Dig. § 7.\* 11 Va.-W. Va. Enc. Dig. 514.]

Appeal from Law and Chancery Court of City of Norfolk.

Suit by John Boyd against the McNamara Syndicate. Decree for complainant, and defendant appeals. Affirmed.

*A. Johnston Ackiss and R. Randolph Hicks, for appellant.*  
*Jeffries, Wolcott, Wolcott & Lankford, for appellee.*

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PIZZINI v. GRINNAN, Judge, et al.

March 22, 1911.

[70 S. E. 850.]

**Prohibition (§ 1\*)—Nature and Scope of Remedy—Question of Constitutionality of Statute.**—Code 1904, c. 143, relating to awards, provides by section 3008 that an award shall be entered as the decree of the court unless cause is shown against it; and section 3009 defines the grounds on which an award may be set aside. A party against whom an award had been made petitioned for a writ against the judge of the chancery court in which the proceedings had been instituted to prohibit the entering up of the award as the decree of the court on the ground that these sections were unconstitutional. Held, that prohibition was not the proper remedy to determine the constitutionality of the statute.

[Ed. Note.—For other cases, see Prohibition, Cent. Dig. § 1; Dec. Dig. § 1.\* 11 Va.-W. Va. Enc. Dig. 403.]

Petition by Andrew Pizzini, Jr., for a writ of prohibition against Daniel Grinnan, Judge of the Chancery Court of the City of Richmond, and George B. Hutchings, to prohibit them from

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\*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.